

Washington, Thursday, May 5, 1938

DEPARTMENT OF THE INTERIOR.

General Land Office.

AIR NAVIGATION SITE WITHDRAWAL NO. 119, CALIFORNIA

APRIL 23, 1938.

It appearing that the following-described public lands in California are necessary for the purpose, it is ordered, under and pursuant to the provisions of section seven of the act of June 28, 1934, 48 Stat. 1269, as amended by the act of June 26, 1936, 49 Stat. 1976, and section four of the act of May 24, 1928, 45 Stat. 728, that such lands be, and they are hereby, withdrawn from all forms of appropriation under the publicland laws, subject to valid existing rights, for use by the Department of Commerce in the maintenance of air navigation facilities:

SAN BERNARDING MERIDIAN

T. 14 N., R 8 E., sec. 1, W\(\frac{1}{2}\)NE\(\frac{1}{4}\), NW\(\frac{1}{4}\); sec. 2, NE\(\frac{1}{4}\); T. 15 N., R. 8 E., sec. 22, S\(\frac{1}{2}\)SE\(\frac{1}{4}\); sec. 26, NW\(\frac{1}{4}\), SE\(\frac{1}{4}\);

sec. 35, SE¼; aggregating 959.80 acres.

Acting Secretary of the Interior.

[F. R. Doc. 38-1270; Filed, May 4, 1938; 9:29 a. m.]

AIR NAVIGATION SITE WITHDRAWAL NO. 117, UTAH

APRIL 25, 1938.

It is ordered, under and pursuant to the provisions of section four of the act of May 24, 1928, 45 Stat. 728, that the following-described public lands in Utah be, and they are hereby, withdrawn from all forms of appropriation under the public-land laws, subject to valid existing rights, for use by the Department of Commerce in the maintenance of air navigation facilities:

SALT LAKE MERIDIAN

Unsurveyed, what will probably be when surveyed:
In T. 22 S., R. 8 W.,
sec. 6, W\\\\\_SW\\\\\_;
sec. 7, NW\\\\\_\\\\_,
In T. 22 S., R. 9 W.,
sec. 1, SE\\\\\\_;
sec. 12, NE\\\\\\_;
aggregating 440 acres.

And departmental order of April 8, 1935, establishing Utah Grazing District No. 3, under the act of June 28, 1934, 48 Stat. 1269, as amended by the act of June 26, 1936, 49 Stat. 1976, is hereby modified so far as it affects the hereindescribed tracts and made subject to the withdrawal made by this order.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-1271; Filed, May 4, 1938; 9:30 a. m.]

STOCK DRIVEWAY No. 3, WYOMING NO. 1, ENLARGED

APRIL 25, 1938.

It appearing that the following-described public land should be included in Stock Driveway Withdrawal No. 3, Wyoming No. 1, it is ordered, under and pursuant to the provisions of section 7 of the act of June 28, 1934, 48 Stat. 1269, as amended by the act of June 26, 1936, 49 Stat. 1976, and section ten of the act of December 29, 1916, 39 Stat. 862, as amended by the act of January 29, 1929, 45 Stat. 1144, that such land, excepting any mineral deposits therein, be, and it is hereby, withdrawn from all disposal under the public-land laws and reserved for the use of the general public as an addition to such driveway reservation, subject to valid existing rights:

SIXTH PRINCIPAL MERIDIAN

T. 45 N., R. 84 W., sec. 8, SW 1/4 SE 1/4, 40 acres.

Any mineral deposits in the land shall be subject to location and entry only in the manner prescribed by the Secretary of the Interior in accordance with the provisions of the aforesaid act of January 29, 1929, and existing regulations.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-1272; Filed, May 4, 1938; 9:30 a. m.]

National Bituminous Coal Commission.

[Docket No. 70-FD]

ORDER IN THE MATTER OF THE APPLICATION OF CONSUMERS LIG-NITE COMPANY FOR A CERTIFICATE OF EXEMPTION PURSUANT TO ORDER NO. 28 OF THE COMMISSION

At a regular session of the National Bituminous Coal Commission held at its offices in Washington, D. C., on the 30th day of April 1938.

It appearing. That on the 20th day of October, 1937, the Commission entered its Order No. 61° providing for a public hearing to be held at the Adolphus Hotel, Dallas, Texas, on the 15th day of November, 1937, commencing at the hour of 10:00 o'clock A. M. for the purpose of receiving evidence to enable the Commission to determine whether certain coals in the State of Texas are subject to the provisions of the Bituminous Coal Act of 1937, and for the further purpose of hearing applications for certificates of exemption as provided for by Order No. 28.° The Commission assigned the cause to an examiner of the Commission for a hearing at the time and place designated by said Order No. 61; and

It further appearing, That due and proper notice of said hearing was given to all interested parties, and the cause came on to be heard pursuant to said Order No. 61; and at

<sup>2</sup> F. R. 2803 (DI). 2 F. R. 1581 (DI).



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said hearing the Consumers Lignite Company, a corporation, intervened and was granted permission to file application for certificate of exemption pursuant to Order No. 28; and the evidence being adduced and being submitted to the examiner, the examiner filed his report in the above entitled matter with the Secretary of the Commission, copies of which were thereafter served upon interested parties in conformance with Rule XXIII of the Rules of Practice and Procedure of the Commission. More than fifteen days have elapsed since said service, and no exceptions to the said report have been filed with the Commission; and

The Commission being fully advised of the evidence adduced at the hearing as the same is contained in the official transcripts of the testimony and documentary evidence filed herein, finds that the proposed finding of fact and the conclusion submitted by the examiner are, in all respects, true and correct, and the same are hereby adopted as the finding of fact and conclusion of the Commission;

Now, therefore, it is by order hereby certified:

That the coal produced at the Consumers Lignite Company's mine, which mine is located near Alba, in Wood County, Texas, is lignite within the meaning of Section 17 (b) of the Bituminous Coal Act of 1937 and therefore is exempt from the provisions of said Act.

By order of the Commission.

Dated this 30th day of April, 1938.

CDAT 7

Edgar C. Faris, Jr., Acting Secretary.

[F. R. Doc. 38-1274; Filed, May 4, 1938; 11:40 a. m.]

[Docket No. 70-FD]

ORDER IN THE MATTER OF THE APPLICATION OF THE MALAKOFF FUEL COMPANY FOR A CERTIFICATE OF EXEMPTION PURSUANT TO ORDER NO. 28 OF THE COMMISSION

At a regular session of the National Bituminous Coal Commission held at its offices in Washington, D. C. on the 30th day of April 1938.

It appearing, That on the 20th day of October, 1937, the Commission entered its Order No. 61 providing for a public hearing to be held at the Adolphus Hotel, Dallas, Texas, on the 15th day of November, 1937, commencing at the hour of 10:00 A. M. for the purpose of receiving evidence to enable the Commission to determine whether certain coals in the State of Texas are subject to the provisions of the Bituminous Coal Act of 1937, and for the further purpose of hearing applications for certificates of exemption as provided for by Order No. 28. The Commission assigned the cause to an examiner of the Commission for a hearing at the time and place designated by said Order No. 61; and

It further appearing, That due and proper notice of said hearing was given to all interested parties, and the cause came on to be heard pursuant to said Order No. 61; and at said hearing the Malakoff Fuel Company, a corporation, intervened and was granted permission to file application for certificate of exemption pursuant to Order No. 28; and the evidence being adduced and being submitted to the examiner, the examiner filed his report in the above entitled matter with the Secretary of the Commission; copies of which were thereafter served upon interested parties in conformance with Rule XXIII of the Rules of Practice and Procedure of of the Commission. More than fifteen days have elapsed since said service, and no exceptions to the said report have been filed with the Commission; and

The Commission being fully advised of the evidence adduced at the hearing as the same is contained in the official transcripts of the testimony and documentary evidence filed herein, finds that the proposed finding of fact and the conclusion submitted by the examiner are, in all respects, true and correct, and the same are hereby adopted as the finding of fact and conclusion of the Commission;

Now, therefore, it is by order hereby certified:

That the coal produced at the Malakoff Mine of the Malakoff Fuel Company, which mine is located in Henderson County, Texas, is lignite within the meaning of Section 17 (b) of the Bituminous Coal Act of 1937 and, therefore, is exempt from the provisions of said Act.

By order of the Commission.

Dated this 30th day of April, 1938.

SEAL!

EDGAR C. FARIS, Jr.,
Acting Secretary.

[F. R. Doc. 38-1277; Filed, May 4, 1938; 11:41 a. m.]

12 F. R. 2803 (DI). 22 F. R. 1581 (DI). [Docket No. 70-FD]

ORDER IN THE MATTER OF THE APPLICATION OF THE MCALESTER FUEL COMPANY FOR A CERTIFICATE OF EXEMPTION PURSUANT TO ORDER NO. 28 OF THE COMMISSION

At a regular session of the National Bituminous Coal Commission held at its offices in Washington, D. C., on the 30th day of April 1938.

It appearing, That on the 20th day of October, 1937, the Commission entered its Order No. 611 providing for a public hearing to be held at the Adolphus Hotel, Dallas, Texas, on the 15th day of November, 1937, commencing at the hour of 10:00 o'clock A. M. for the purpose of receiving evidence to enable the Commission to determine whether certain coals in the State of Texas are subject to the provisions of the Bituminous Coal Act of 1937, and for the further purpose of hearing applications for certificates of exemption as provided for by Order No. 28.3 The Commission assigned the cause to an examiner of the Commission for a hearing at the time and place designated by said Order No. 61; and

It further appearing, That due and proper notice of said hearing was given to all interested parties, and the cause came on to be heard pursuant to said Order No. 61; and at said hearing the McAlester Fuel Company, a corporation, intervened and was granted permission to file application for certificate of exemption pursuant to Order No. 28; and the evidence being adduced and being submitted to the examiner, the examiner filed his report in the above-entitled matter with the Secretary of the Commission; copies of which were thereafter served upon interested parties in conformance with Rule XXIII of the Rules of Practice and Procedure of the Commission. More than fifteen days have elapsed since said service, and no exceptions to the said report have been filed with the Commission; and

The Commission being fully advised of the evidence adduced at the hearing as the same is contained in the official transcripts of the testimony and documentary evidence filed herein, finds that the proposed finding of fact and the conclusion submitted by the examiner, are, in all respects, true and correct, and the same are hereby adopted as the finding of fact and the conclusion of the Commission:

Now, therefore, it is by order hereby certified:

That the coal produced at the Sandow Mine of the Mc-Alester Fuel Company, which mine is located in Milan County, Texas, is lignite within the meaning of Section 17 (b) of the Bituminous Coal Act of 1937, and, therefore, is exempt from the provisions of said Act.

By order of the Commission. Dated this 30th day of April, 1938.

[SEAL]

EDGAR C. FARIS, Jr., Acting Secretary.

[F. R. Doc. 38-1275; Filed, May 4, 1938; 11:40 a. m.]

# [Docket No. 70-FD]

ORDER IN THE MATTER OF THE APPLICATION OF THE MORTON SALT COMPANY FOR A CERTIFICATE OF EXEMPTION PURSUANT TO ORDER NO. 28 OF THE COMMISSION

At a regular session of the National Bituminous Coal Commission held at its offices in Washington, D. C., on the 30th day of April 1938.

It appearing, That on the 20th day of October, 1937, the Commission entered its Order No. 61 1 providing for a public hearing to be held at the Adolphus Hotel, Dallas, Texas, on the 15th day of November, 1937, commencing at the hour of 10:00 o'clock a. m. for the purpose of receiving evidence to enable the Commission to determine whether certain coals in the State of Texas are subject to the provisions of the Bituminous Coal Act of 1937, and for the further purpose of hearing applications for certificates of exemption as provided for by Order No. 28; 1 and that the Morton Salt Company of Chicago, Illinois, operating a coal mine at Alba, Texas, filed application for a certificate of exemption pursuant to Order No. 28, alleging that the coals produced by it are not subject to the provisions of the said Act. The Commission assigned the cause to an examiner of the Commission for a hearing at the time and place designated by said Order No. 61; and

It further appearing, That due and proper notice of said hearing was given to all interested parties, and the cause came on to be heard pursuant to Order No. 61; and the evidence being adduced and being submitted to the examiner, the examiner filed his report in the above-entitled matter with the Secretary of the Commission, copies of which were thereafter served upon interested parties in conformance with Rule XXIII of the Rules of Practice and Procedure of the Commission. More than fifteen days have elapsed since said service, and no exceptions to the said report have been filed with the Commission; and

The Commission being fully advised of the evidence adduced at the hearing as the same is contained in the official transcripts of the testimony and documentary evidence filed herein, finds that the proposed findings of fact and the conclusion submitted by the examiner are, in all respects, true and correct, and the same are hereby adopted as the findings of fact and conclusion of the Commission:

Now, therefore, it is by order hereby certified:

That the coal produced at the Alba Mine of the Morton Salt Company, which mine is located at Alba, Texas, in both Rains and Wood Counties, is lignite within the meaning of Section 17 (b) of the Bituminous Coal Act of 1937 and, therefore, is exempt from the provisions of said Act.

By order of the Commission. Dated this 30th day of April 1938.

EDGAR C. FARIS, Jr., Acting Secretary.

[F. R. Doc. 38-1276; Filed, May 4, 1938; 11:40 a. m.]

## (Docket No. 322-FD1

IN THE MATTER OF THE APPLICATIONS FOR EXEMPTION UNDER Section 4 (L) and the Second Paragraph of Section 4A of THE BITUMINOUS COAL ACT OF 1937

COWGILL MINE, CAMBRIDGE, OHIO; BLUE DIAMOND COAL CO., POM-EROY, OHIO; JAMES KENNARD, NEW PLYMOUTH, OHIO; J. H. WISECARVER, R. F. D. NO. 1, SONORA, OHIO; DARK HOLLOW COAL CO., MIDDLEPORT, OHIO; H. S. GANDER COAL CO., CAMBRIDGE, OHIO; PLAINVIEW COAL CO., CAMBRIDGE, OHIO; THE SHARRATT COAL CO., CAMBRIDGE, OHIO; HAMILTON TRENNER COAL CO., CAMBRIDGE, OHIO; JOE GROZDON, BELLAIRE, OHIO; ROBINSON CLAY PRODUCT CO., AKRON, OHIO; GENERAL CLAY PRODUCTS CO., COLUMBUS, OHIO; HICKORY CLAY PRODUCTS CO., MINERAL CITY, OHIO; CAMBRIA CLAY PRODUCTS CO., BLACKFORT, OHIO; JOS. F. HOSEN-FELD, MARTINS FERRY, OHIO; ROSS MATTERN, CADIZ, OHIO; M. R. M'CONNELL, MT. EPHRAIM, OHIO; BIG LUMP COAL CO., POMEROY, OHIO; T. E. LUMAN, ROSEVILLE, OHIO; METROPOLITAN PAVING BRICK CO., CANTON, OHIO; THOMPSON AND EDMISTON, R. F. D. NO. 1, DILLONVALE, OHIO; MUSKINGUM COAL CO., ZANESVILLE, OHIO

# Notice of and Order for Hearings

The Commission, pursuant to the first paragraph of Section 4A of the Bituminous Coal Act of 1937, having on the 11th day of November, 1937, by order, in Commission's Docket No. 18-FD, declared that on and after the 15th day of December, 1937, all bituminous coal sold, delivered, or offered for sale in transactions in intrastate commerce in such coal in all localities within the State of Ohio, should be subject to the provisions of Section 4 of the Bituminous Coal Act of 1937; to the Bituminous Coal Code, as promulgated by the Commission and made effective on the 21st day of June, 1937," and to

<sup>12</sup> F. R. 2803 (DI). 12 F. R. 1581 (DI).

<sup>&</sup>lt;sup>1</sup>2 F. R. 1581 (DI) <sup>2</sup>2 F. R. 2899 (DI) <sup>2</sup>2 F. R. 1267 (DI)

all relevant orders of the Commission in effect on the date of such order, as well as all further orders which might thereafter be issued by the Commission under Section 4 of said Act, so as to apply to such intrastate commerce in coal within the State of Ohio; and

The above entitled applicants believing that their commerce in coal is not subject to the provisions of Section 4 or to the provisions of Section 4A, having filed applications for exemption with this Commission pursuant to the second paragraph of Section 4A:

Now, therefore, it is hereby ordered:

1. That, beginning on the 24th day of May, 1938, at ten o'clock a. m. at the Hearing Room of the Commission in the Rogge Hotel, Zanesville, Ohio, hearings on the said applications be held before Charles O. Fowler, an Examiner of this Commission designated and appointed to take testimony and receive evidence in these proceedings and to perform all other duties authorized by law.

2. That said Examiner is hereby authorized and directed to designate, at the opening session of the hearings herein noticed, the order in which the above entitled applications will be heard, and to adjourn said hearings from time to time as the convenience of the applicants and necessities of the

situation may require.

3. A copy of each application shall be placed on file and made available for inspection by interested parties at the office of the Secretary of the Commission, at the Statistical Bureau of the Commission for District No. 4 and at the office of the District Board for District No. 4.

4. The Secretary of the Commission is directed forthwith to mail a copy of this notice to each of the applicants above named or to their Attorneys of record; to the Consumers' Counsel; to the Secretary of each District Board, and shall cause a copy hereof to be filed and made available for inspection at each of the Statistical Bureaus of the Commission; and shall cause a copy hereof to be published for two consecutive days in two newspapers of general circulation in the State of Ohio; and shall cause a copy hereof to be published in the FEDERAL REGISTER.

By order of the Commission. Dated this 30th day of April, 1938.

[SEAL]

EDGAR C. FARIS, Jr., Acting Secretary.

Section Number

[F. R. Doc. 38-1278; Filed, May 4, 1938; 11:41 a. m.]

## Office of Indian Affairs.

REGULATIONS GOVERNING THE LEASING OF RESTRICTED LANDS BELONGING TO MEMBERS OF THE FIVE CIVILIZED TRIBES OF INDIANS IN OKLAHOMA, FOR MINING PURPOSES

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#### ACTS AFFECTING LEASES

Sections 2, 3, and 11 of the Act approved May 27, 1908 (35 Stat. 312) provide:

SEC. 2. That all lands other than homesteads allotted to members of the Pive Civilized Tribes from which restrictions have not been removed may be leased by the allottee if an adult, or by guardian or curator under order of the proper probate court if a minor or incompetent, for a period not to exceed five years, without the privilege of renewal: Provided, That leases of restricted lands for oil, gas, or other mining purposes, leases of restricted homesteads for more than one year, and leases of restricted lands for periods of more than five years may be made, with the approval of the Secretary of the Interior, under rules and regulations provided by the Secretary of the Interior, and not otherwise: And provided further, That the jurisdiction of the probate courts of the State of Oklahoma over land of minors and incompetents shall be subject to the foregoing provisions, and 2. That all lands other than homesteads allotted to memincompetents shall be subject to the foregoing provisions, and the term "minor" or "minors," as used in this act, shall include all males under the age of 21 years and all females under the

an maies under the age of 17 years and an remain of the Five age of 18 years.

SEC. 3. That the rolls of citizenship and of freedmen of the Five Civilized Tribes, approved by the Secretary of the Interior shall be conclusive evidence as to the quantum of Indian blood of any enrolled citizen of freedman of said tribes and of no other persons to determine questions arising under this act and the enrollment records of the Commissioner to the Five Civilized Tribes shall hereafter be conclusive evidence as to the age of said citizen or

freedman.

That no oil, gas, or other mineral lease entered into by any of said allottees prior to the removal of restrictions requiring the approval of the Secretary of the Interior shall be rendered invalid approval of the Secretary of the Interior shall be rendered invalid by this act, but the same shall be subject to the approval of the Secretary of the Interior as if this act had not been passed: Provided. That the owner or owners of any allotted land from which restrictions are removed by this act, or have been removed by previous acts of Congress, or by the Secretary of the Interior, or may hereafter be removed under and by authority of any act of Congress, shall have the power to cancel and annul any oil, gas, or mineral lease on said land whenever the owner or owners of said land and the owner or owners of the lease thereon agree gas, or mineral lease on said land whenever the owner or owners of said land and the owner or owners of the lease thereon agree in writing to terminate said lease and file with the Secretary of the Interior, or his designated agent, a true copy of the agreement in writing canceling said lease, which said agreement shall be executed and acknowledged by the parties thereto in the manner required by the laws of Oklahoma for the execution and acknowledgment of deeds, and the same shall be recorded in the county where the land is situate.

Sec. 11. That all royalties arising on and after July 1, 1908, from

SEC. 11. That all royalties arising on and after July 1, 1908, from mineral leases of allotted Seminole lands heretofore or hereafter made which are subject to the supervision of the Secretary of the Interior shall be paid to the United States Indian Agent, Union Agency, for the benefit of the Indian lessor or his proper representative to whom such royalties shall thereafter belong; and no such lease shall be made after said date except with the allottee or owner of the land: Provided, That the interest of the Seminole Nation in leases or royalties arising thereunder on all elicited lands. Nation in leases or royalties arising thereunder on all allotted lands

shall cease on June 30, 1908.

Section 18 of the Act of Congress approved February 14, 1920 (41 Stat. 426), provides in part as follows:

\* \* Provided further, That hereafter no undisputed claims to be paid from individual moneys of restricted allottees, or their heirs, or uncontested agricultural and mineral leases (excluding oil and gas leases) made by individual restricted Indian allottees, or their heirs, shall be forwarded to the Secretary of the Interior for approval; but all such undisputed claims or uncontested leases

(except oil and gas leases) heretofore required to be approved under existing law by the Secretary of the Interior shall hereafter be paid, approved, rejected, or disapproved by the Superintendent for the Five Civilized Tribes of Oklahoms: Provided, however, That any party aggrieved by any decision or order of the Superintendent for the Five Civilized Tribes of Oklahoms may appeal from the same to the Secretary of the Interior within 30 days from the date of said decision or order.

Section 1 of the Act of Congress approved May 10, 1928 (45 Stat. 495) provides:

That the restrictions against the alienation, lease, mortgage, or other encumbrance of the lands allotted to members of the Five Civilized Tribes in Oklahoma, enrolled as of one-half or more Indian blood, be, and they are hereby, extended for an additional period of twenty-five years commencing on April 26, 1931: Provided, That the Secretary of the Interior shall have the authority to remove the restrictions, upon the applications of the Indian owners of the land, and may remove such restrictions, wholly or in part, under such rules and regulations concerning terms of sale and disposal of the proceeds for the benefit of the respective Indians as he may prescribe.

Sections 1 and 8 of the Act of Congress approved January 27, 1933 (47 Stat. 777) provide:

\* \* Provided, That where the entire interest in any tract of restricted and tax-exempt land belonging to members of the Pive Civilized Tribes is acquired by inheritance, devise, gift or purchase, with restricted funds, by or for restricted Indians, such lands shall remain restricted and tax-exempt during the life of and as long as held by such restricted Indians, but not longer than April 26, 1956, unless the restrictions are removed in the meantime in the manner provided by law: Provided, further, That such restricted and tax-exempt land held by anyone, acquired as herein provided, shall not exceed one hundred and sixty acres: And provided further, That all minerals including oil and gas produced from said land so acquired shall be subject to all State and Federal taxes as provided in section 3 of the Act approved May 10, 1928 (45 Stat. 495).

(45 Stat. 495).
SEC. 8. That it shall be the duty of the attorneys provided for under the Act of May 27, 1908 (35 Stat. 312), to appear and represent any restricted member of the Pive Civilized Tribes before the county courts of any county in the State of Oklahoma, or before any appellate court thereof, in any matter in which said restricted Indians may have an interest, and no conveyance of any interest in land of any full-blood Indian heir shall be valid unless approved in open court after notice in accordance with the rules of procedure in probate matters adopted by the Supreme Court of Oklahoma in June of 1914, and said attorneys shall have the right to appeal from the decision of any county court approving the sale of any interest in land, to the district court of the district to which the county is a part

To carry out the provisions of existing law as quoted above the following regulations governing the leasing of lands of members of the Five Civilized Tribes, for mining purposes, are hereby prescribed:

## DEFINITIONS

SEC. 1. The term "Superintendent" herein refers to the superintendent or other officer of the Indian Service or of the Government who may be in charge of the Five Civilized Tribes Indian Agency.

The term "Supervisor" herein refers to a representative of the Secretary of the Interior, under direction of the Director of the United States Geological Survey, authorized and empowered to supervise and direct operations under oil and gas or other mining leases, to furnish scientific and technical information and advice, to ascertain and record the amount and value of production, and to determine and record rentals and royalties due and paid.

# HOW TO ACQUIRE LEASES

SEC. 2. Applications for leases.—Applications for leases should be made to the superintendent.

SEC. 3. No Government employee shall acquire leases.—No lease, assignment thereof, or interest therein will be approved to any employee or employees of the United States Government, whether connected with the Indian Service or otherwise, and no employee of the Interior Department shall be permitted to acquire any interest in such leases covering restricted Indian lands by ownership of stock in corporations having leases or in any other manner.

SEC. 4. Sales of oil and gas leases.—At such times and in such manner as he may deem appropriate, the superintendent shall publish notices that oil and gas leases on specific tracts, each of which shall be in a compact body, will be offered to the highest responsible bidder: Provided, That where leases have been entered into under order of the proper probate court including leases covering land in which minors or incompetents are interested, the oil and gas inspector of the Five Civilized Tribes Agency shall appraise the bonus value, and the lessee will be required to pay not less than such appraised value. Successful bidders must deposit with the superintendent on the day of sale a certified check or bank draft on a solvent bank in the amount equal to twenty percent of the bonus bid and of the first year's rental, as a guaranty of good faith. The balance of the bonus and of the first year's rental shall be paid and the lease in completed form shall be filed within 20 days after the lease is forwarded, by the superintendent, to the lessee for execution, unless such period has been extended by the superintendent for good and sufficient reason. In cases where any part of the bonus bid for a lease is paid directly to the Indian lessor, upon his signing the lease, the lessee must procure and file with the lease an affidavit of the lessor, sworn to before a United States Commissioner, Indian superintendent, local representative of the Office of the superintendent for the Five Civilized Tribes, County or District Judge, Federal Judge or Clerk of a Federal Court, showing the amount of bonus so paid, and the balance thereof must be paid into the Office of the superintendent upon filing the lease. Where possible lessees are requested to take the lessor to the nearest United States Field Clerk who will render all proper assistance in the execution of leases, and before whom the bonus affidavit may be executed in cases where any part of bonus consideration is paid directly to the Indian. Where leases are executed by guardians, under order of court, the affidavit of lessor may be executed before a notary public. In submitting the leases for consideration, the superintendent shall consult with the oil and gas inspector at the Five Civilized Tribes Agency and report upon the adequacy of the bonus offered for each lease. If the successful bidder fails to complete the lease or to pay the full consideration within 20 days or authorized extension thereof, or if the lease is disapproved through no fault of the lessor or the Interior Department, the amount deposited as a guaranty of good faith shall be forfeited for the use and benefit of the Indian lessor. The right is reserved by the Secretary of the Interior to reject any and all bids and to disapprove and reject any lease made on an accepted bid; and should any bid be rejected after deposit is made by the bidder, all amounts deposited with the superintendent will be immediately returned.

SEC. 5. Term of oil and gas lease.—Oil and gas mining leases which require the approval of the Secretary of the Interior may be made for periods of ten years from the date of approval of lease by the Secretary of the Interior and as much longer thereafter as oil and/or gas is produced in paying quantities.

Sec. 6. Leases for minerals other than oil and gas.—Uncontested mining leases for minerals other than oil and gas shall be made on forms prescribed by the Department, for a period of 15 years with the right of renewal on such terms as the superintendent may prescribe, and shall be subject only to approval by the superintendent. See provisions of the Act of February 14, 1920 (41 Stat. 408-426). Any person aggrieved by any decision or order of the superintendent approving, rejecting, or disapproving any such lease may appeal from the same to the Secretary of the Interior within 30 days from the date of such decision or order.

SEC. 7. Approval /ee.—A fee of \$5 is required upon approval of each lease, sublease, or assignment, pursuant to the provisions of the Act of February 14, 1920 (41 Stat. 408-415) as amended by the Act of March 1, 1933 (47 Stat. 1417; 25 U. S. C. 413). This fee shall be paid at the time of filing the lease, sublease, or assignment, and will be refunded in case the instrument is disapproved.

Sec. 8. Filing of lease deemed constructive notice.—The filing of any lease in the office of the superintendent shall be deemed constructive notice of the existence of such lease. See Act of March 1, 1907 (34 Stat. 1015).

Sec. 9. Noncontiguous tracts.—No lease will be approved covering two or more noncontiguous tracts of land, but in such case a lease must be executed on each separate tract.

Sec. 10. Lessor's signature.—Any Indian who can not write his name will be required to sign all official papers by making a distinct thumbprint which shall be designated as "right" or "left" thumbmark. Such signatures must be witnessed by two persons, one of whom must be a United States Government employee (such as Field Clerk, postmaster, United States Commissioner, etc.).

Sec. 11. Minor lessors.—Where the lessor is a minor, certified copies of letters of guardianship and court orders approving leases must be filed.

Sec. 12. Leases executed by guardians of minors.—Leases executed by guardians of minors under order of court for a period extending beyond the minority of the minor will be approved unless it appears that such action would be prejudicial to the interests of the minor: Provided, That in the event the minor becomes of age within one year from date of execution of lease the consent of the minor to the execution of the lease should be obtained and submitted with the lease for consideration.

Sec. 13. Inherited lands.—Except to prevent loss or waste, leases on undivided inherited lands will not be approved until the heirship determination has been approved. If the heirs to undivided inherited lands are undetermined or can not be located, or if the heirs owning less than one-half interest in the lands refuse to sign a lease and it appears necessary to lease the lands to prevent loss or waste, the superintendent will report the facts to the Commissioner of Indian Affairs and ask for instructions. Minor heirs can lease or join adult heirs in leasing only through guardians under order of court. Proof of heirship shall be given upon Form F prescribed. If probate or other court proceedings have established the heirship in any case, or the land has been partitioned, certified copy of final order, judgment, or decree of the court will be accepted in lieu of Form F.

Sec. 14. Corporations and corporate information.—If the applicant for a lease is a corporation, it shall file evidence of authority of its officers to execute papers; and with its first application it shall also file a certified copy of its articles of incorporation, and, if foreign to the State in which the lands are located, evidence showing compliance with the corporation laws thereof. Statements of changes in officers and stockholders shall be furnished by a corporation lessee to the superintendent January 1 of each year, and at such other times as may be requested.

Whenever deemed advisable in any case the superintendent may require a corporation applicant or lessee to file:

- List of officers, principal stockholders, and directors, with post-office addresses and number of shares held by each.
  - (II) A sworn statement of the proper officer showing:
  - (a) The total number of shares of the capital stock actually issued and the amount of cash paid into the treasury on each share sold; or, if paid in property, the kind, quantity, and value of the same paid per share.
  - (b) Of the stock sold, how much remains unpaid and subject to assessment.
  - (c) The amount of cash the company has in its treasury and elsewhere.
  - (d) The property, exclusive of cash, owned by the company and its value.
  - (e) The total indebtedness of the company and the nature of its obligations.
  - (f) Whether the applicant or any person controlling, controlled by or under common control with the applicant has filed any registration statement, application for registration, prospectus or offering sheet with the Securities and Exchange Commission pursuant to the Securities Act of 1933 or the Securities Exchange Act of 1934 or said Commission's rules and regulations under said Acts; if so, under what provision of said Acts or rules and regulations, and what disposition of any such state-

ment, application, prospectus or offering sheet has been made.

(III) Affidavits of individual stockholders, setting forth in what corporations, or with what persons, firms, or associations such individual stockholders are interested in mining leases on restricted lands within the State, and whether they hold such interest for themselves or in trust.

Sec. 15. Bonds.-Lessee shall furnish with each lease, a bond (form 5-154b) with personal sureties or with an acceptable company authorized to act as sole surety. Such bond shall be in amount as follows: For less than 80 acres, \$1,000: for 80 acres and less than 120 acres, \$1,500; for 120 acres and not more than 160 acres, \$2,000; and for each additional 40 acres, or part thereof, above 160 acres, \$500: Provided. That a lessee may file one bond (form 5-154u) in the sum of \$15,000, covering all leases of a particular class up to 10.240 acres, to which he is or may become a party. The right is reserved at any time before or after approval of the lease to increase the amount of a bond above the sum named. in any case where the Secretary of the Interior deems it proper to do so. Bonds with personal sureties will be accepted only where the sureties deposit collateral, with the Commissioner of Indian Affairs, equal in value to the full amount of the bond and consisting of any public debt obligation of the United States, guaranteed as to principal and interest by the United States. In lieu of other bonds, lessees may execute their own surety contracts upon deposit, with the Commissioner of Indian Affairs, of Government bonds, equal in value to the full amount of the bond, as collateral (form 5-154a)

Sec. 16. Additional information may be requested by superintendent.—The superintendent, or other Government officer having the matter in charge or under investigation, may, at any time, either before or after approval of a lease, call for any additional information desired to carry out the purpose of these regulations, and such information shall be furnished within the time specified in the request therefor. If the lessee fails to furnish the information requested, the lease will be subject to disapproval or cancellation, whichever is appropriate.

GOVERNMENT RESERVES RIGHT TO PURCHASE MINERALS PRODUCED

Sec. 17. In time of war or other public emergency any of the executive departments of the United States Government shall have the option to purchase at the prevailing market price on the date of sale all or any part of the minerals produced under any lease.

## RENTS AND ROYALTIES

Sec. 18. Manner of payment of rents and royalties.-All rents and other payments due under leases which have been or may be approved by the Secretary of the Interior shall be paid by check or bank draft on a solvent bank, to the order of the superintendent or to such other person as may be designated by the Secretary of the Interior, for the benefit of the various lessors. Except advance payments for the first year which shall be sent direct to the superintendent at the time of filing the leases, payments of rental and royalty under oil and gas leases shall be transmitted through the supervisor, shall be accompanied by a statement by the lessee, in triplicate, showing the specific items of rental or royalty that the remittance is intended to cover, and shall be made at such time or times as the lease provides. No credit will be given any lessee for rents or royalties paid direct to the lessors or their representatives, while the lands continue under restrictions, and all payments required under departmental leases covering lands from which restrictions have been removed by death or otherwise may be made to the superintendent until 10 days after notice of relinquishment of supervision has been mailed to the lessee by the superintendent.

For leases other than oil and gas, all advance rentals and royalties for the first year shall be paid to the superintendent at the time of filing the lease, and the advance royalty and 20 percent of the first year's rental so paid shall be and become the property of the lessor if the lease be disapproved because of the lessee's failure to meet the requirements of the law or of these regulations or because of any other fault or defect chargeable to the lessee.

SEC. 19. Crediting advance annual payments.—In the event of discovery of minerals in paying quantities all advance rents and advance royalties shall be allowed as credit on stipulated royalties for the year for which such advance payments have been made. No refund of such advance payments made under any lease which may be so credited on stipulated royalties will be allowed in the event the royalty on production is not sufficient to equal such advance payment; nor will any part of the moneys so paid be refunded to the lessee because of any subsequent surrender or cancellation of the lease.

Sec. 20. Disposition of income from leases .- All royalties, rents, or payments accruing under any lease shall be deposited by the superintendent to the credit of the Indian lessor entitled to the same. Such income belonging to any minor or other Indian under local guardianship shall be held by the superintendent or such other officer as may be designated by the Secretary of the Interior to the credit of the guardian (or curator) of such minor or other Indian under local guardianship, and shall be paid to such guardian (or curator) upon voucher executed by him and approved by the judge of the county (probate) court having jurisdiction of the estate of such minor or other Indian under local guardianship (the form of such voucher to be prescribed by the Department), or upon authority of such court in the form of an order satisfactory to said superintendent or other officer in charge of the office of the superintendent for the Five Civilized Tribes.

The said superintendent is authorized, however, in his discretion, where considered for the best interest of any adult, minor, or incompetent lessor, or his or her heirs, for whose account royalties, rents, or payments accruing under any lease have been paid to said superintendent to withhold the disbursement of such royalties, rents, or payments, wholly or in part, from any such adult or guardian or curator of any such minor or incompetent, or his or her heirs, until such time or times as the payment thereof is considered best for the benefit of said lessor or his or her heirs; Provided, that in such individual cases or classes of cases as the Secretary of the Interior may direct, the Superintendent shall cause such payments as may be authorized to be made out of the royalties and other individual Indian funds of the restricted Indians, minors, and incompetents, to be paid direct to the Indians, entitled thereto or to be otherwise paid out for their benefit and use, as the Secretary of the Interior may authorize in said cases.

From the individual Indian restricted funds derived as royalties or otherwise, no disbursements in settlement of litigation or in payment of attorney's fees or in the purchase of or investment in real estate or in loans upon real estate shall be made except with the approval of the Secretary of the Interior thereto: Provided, however, That nothing in this Section shall be construed as limiting or affecting the jurisdiction of the Superintendent as authorized by certain provisions of the act of Congress approved February 14, 1920 (14 Stat. L., 408–426).

Sec. 21. Rate of rents on leases other than oil and gas.—
On all mineral leases of allotted lands other than oil and gas leases, rental shall be paid annually in advance from the date of approval of the lease, as follows: Fifty cents per acre for the first year, seventy-five cents per acre for the second year, and \$1.00 per acre for the third and each succeeding year of the term of the lease.

SEC. 22. Expenditures under leases other than oil and gas.—
On all leases on deposits of the nature of lodes and veins containing ores of gold, silver, copper, lead, zinc, or other useful metals, there shall be expended annually in actual mining operations, development, or improvements upon the lands leased, or for the benefit thereof, a sum which, with the annual rental, shall amount to not less than \$5 per acre.

On all leases for beds of placer gold, gypsum, asphaltum, phosphate, iron ores, or other useful metals other than

coal, oil, and gas, there shall be expended annually in actual mining operations, development, or improvements, upon the lands leased, or for the benefit thereof, a sum which, with the annual rental, shall amount to not less than \$5 per acre.

On all coal leases, there shall be expended annually in actual mining operations, development, or improvements, upon the lands leased, or for the benefit thereof, a sum which, with the annual rental, shall amount to not less than \$10 per acre.

Each lessee shall file with the superintendent an itemized statement in duplicate, within 20 days after the close of each year, of the amount and character of said expenditures during such year; the statement to be certified under oath by the lessee or his agent having personal knowledge of the facts contained therein.

SEC. 23. Rate of royalty for minerals other than oil and gas.—For substances other than gold, allver, copper, lead, zinc, tungsten, coal, asphaltum, and allied substances, oil, and gas, the lessee shall pay quarterly or as otherwise provided in the lease, a royalty of not less than ten percent of the value, at the nearest shipping point, of all ores, metals, or minerals marketed.

For gold, silver, copper, lead, zinc, and tungsten, the lesses shall pay quarterly or as otherwise provided in the lease, a royalty of not less than ten percent, to be computed on the value of bullion as shown by mint returns after deducting forwarding charges to the point of sale, and to be computed on the value of ores and concentrates as shown by reduction returns after deducting freight charges to the point of sale. Duplicate returns shall be filed by the lessee with the superintendent within ten days after the ending of the quarter or other period specified in the lease within which such returns are made: *Provided, however*, That the lessee shall pay quarterly or as otherwise provided in the lease, a royalty of not less than ten percent of the value of ores and concentrates sold at the mine.

For coal, the lessee shall pay quarterly or as otherwise provided in the lease, a royalty of not less than ten cents per ton of 2,000 pounds of mine run, or coal as taken from the mine, including what is commonly called "slack."

For asphaltum and allied substances the lessee shall pay quarterly or as otherwise provided in the lease, a royalty of not less than ten cents per ton of 2,000 pounds on crude material and of not less than 60 cents per ton on refined substances.

Sec. 24. Rate of rents and royalties on oil and gas leases.-The lessee shall pay, beginning with the date of approval of oil and gas leases by the Secretary of the Interior, a rental of \$1.25 per acre per annum in advance during the continuance thereof, together with a royalty of 121/2 percent of the value or amount of all oil, gas, and/or natural gasoline, and/or all other hydrocarbon substances produced and saved from the land leased, save and except oil and/or gas used by the lessee for development and operation purposes on the lease, which oil or gas shall be royalty free. During the period of supervision, "value" for the purposes of the lease may, in the discretion of the Secretary of the Interior be calculated on the basis of the highest price paid or offered (whether calculated on the basis of short or actual volume) at the time of production for the major portion of the oil of the same gravity, and gas, and/or natural gasoline, and/or all other hydrocarbon substances produced and sold from the field where the leased lands are situated, and the actual volume of the marketable product less the content of foreign substances as determined by the supervisor. The actual amount realized by the lessee from the sale of said products may, in the discretion of the Secretary of the Interior, be deemed mere evidence of or conclusive evidence of such value. When paid in value, such royalties shall be due and payable monthly at such time as the lease provides; when royalty on oil produced is paid in kind, such royalty oil shall be delivered in tanks provided by the lessee on the premises where produced without cost to the lessor unless otherwise agreed to by the parties thereto, at such time as may be required by

the lessor. The lessee shall not be required to hold such royalty oil in storage longer than 30 days after the end of the calendar month in which said oil is produced. The lessee shall be in no manner responsible or held liable for loss or destruction of such oil in storage by causes beyond his control.

Sec. 25. Free use of gas by lessor.—If the leased premises produce gas in excess of the lessee's requirements for the development and operation of said premises, then the lessor may use sufficient gas, free of charge, for all stoves and inside lights in the principal dwelling house on said premises, by making his own connections to a regulator, connected to the well and maintained by the lessee, and the lessee shall not be required to pay royalty on gas so used. The use of such gas shall be at the lessor's risk at all times.

Sec. 26. Rate of royalty on casinghead gas.—On casinghead gas used or sold for the manufacture of casinghead gasoline the minimum rate of royalty shall be 12½ percent of the value of the casinghead gas, which value shall be determined and computed on the basis and in the manner provided in the applicable operating regulations of the Department.

In cases where gas produced and sold has a value for drip gasoline, casinghead gasoline content, and as dry gas from which the casinghead gasoline has been extracted, then the royalties above provided shall be paid on all such values.

SEC. 27. Rate of rental for nonutilized gas wells.—If the gas from a gas producing well is not marketed or utilized, other than for operation of the lease, then for each such well the lessee shall pay such rental as may be determined by the supervisor and approved by the Secretary of the Interior, calculated from the date of the completion of the well. Payment of annual gas rentals shall be made within 30 days from the date such payment becomes due.

SEC. 28. Royalty payments and production reports.—Royalty payments on all oil and gas or other producing leases shall be made at the rates, and at such time, and in the manner prescribed by the terms of the lease.

Quarterly reports shall be made by each lessee on non-producing leases other than oil and gas within 25 days after December 31, March 31, June 30, and September 30, of each year, upon forms provided, showing manner of operations and total production during such quarter. A lessee may include within one sworn statement all leases upon which there is no production or upon which dry holes have been drilled. Reports of oil and gas leases where royalty accounting is done in the field office of the supervisor will be made as required in the operating regulations.

Sec. 29. Division orders.-Leases may make arrangements with the purchasers of oil for the payment of the royalties to the superintendent by such purchasers, but such arrangement, if made, shall not operate to relieve a lessee from responsibility should the purchaser fail or refuse to pay royalties when due. Where lessees avail themselves of this privilege, division orders permitting the pipeline companies or other purchasers of the oil to withhold the royalty interest shall be executed and forwarded to the supervisor for approval, as pipeline companies are not permitted to accept or run oil from leased Indian lands until after the approval of a division order showing that the lessee has a lease regularly approved and in effect. When the lessee company runs its own oil, it shall execute an intra-company division order and forward it to the supervisor for his consideration. The right is reserved for the supervisor to cancel a division order at any time or require the pipeline company to discontinue to run the oil of any lessee who fails to operate the lease properly or otherwise violates the provisions of the lease, of these regulations, or of the operating regulations.

When oil is taken by authority of a division order, the lessee or his representatives shall be actually present when the oil is gauged and records are made of the temperature, gravity, and impurities. The lessee will be held responsible for the correctness and the correct recording and reporting of all the foregoing measurements, which, except lowest gauge, shall be made at the time the oil is turned into the

pipe line. Failure of the lessee to perform properly these duties will subject the division order to revocation.

#### **OPERATIONS**

Sec. 30. Permission to start operations.—No operations will be permitted on any lease before it is approved. Written permission must be secured from the supervisor before any operations are started under any oil and gas lease. Operations must be in accordance with the operating regulations promulgated by the Secretary of the Interior. Copies of these regulations may be secured from either the supervisor or the superintendent and no operations should be attempted without a study of the operating regulations.

SEC. 31. Restrictions on operations.—Oil and gas leases issued under the provisions of these regulations shall be subject to imposition by the Secretary of the Interior of such restrictions as to time or times for the drilling of wells and as to the production from any well or wells as in his judgment may be necessary or proper for the protection of the natural resources of the leased land and in the interest of the lessor. In the exercise of his judgment the Secretary of the Interior may take into consideration, among other things, the Federal laws, State laws, regulations by competent Federal or State authorities, lawful agreements among operators regulating either drilling or production, or both.

All such leases shall be subject to any cooperative or unit plan of development affecting the leased lands that may be required by the Secretary of the Interior, but no lease shall be included in any cooperative or unit plan without prior approval of the Secretary of the Interior. If said plan effects a change in the lease terms, the consent of the lessor or lessors must be obtained before the plan is effective.

Sec. 32. Wells.-The lessee shall agree (1) to drill and produce all wells necessary to offset or protect the leased land from drainage by wells on adjoining lands not the property of the lessor, or in lieu thereof, compensate the lessor in full each month for the estimated loss of royalty through drainage: Provided, That during the period of supervision by the Secretary of the Interior, the necessity for offset wells shall be determined by the supervisor and payment in lieu of drilling and producing shall be with the consent of, and in an amount determined by the Secretary of the Interior; (2) at the election of the lessee to drill and produce other wells: Provided, That the right to drill and produce such other wells shall be subject to any system of well spacing or production allotments authorized and approved under applicable law or regulations, approved by the Secretary of the Interior and affecting the field or area in which the leased lands are situated; and (3) if the lessee elects not to drill and produce such other wells for any period the Secretary of the Interior may, within ten days after due notice in writing, either require the drilling and production of such wells to the number necessary, in his opinion, to insure reasonable diligence in the development and operation of the property, or may in lieu of such additional diligent drilling and production require the payment on and after the first anniversary date of the lease of not to exceed \$1 per acre per annum, which sum shall be in addition to any rental or royalty herein specified.

Sec. 33. Diligence, and prevention of waste.-The lessee shall exercise diligence in drilling and operating wells for oil and gas on the leased lands while such products can be secured in paying quantities; carry on all operations in a good and workmen-like manner in accordance with approved methods and practice, having due regard for the prevention of waste of oil or gas developed on the land, or the entrance of water through wells drilled by the lessee to the productive sands or oil or gas-bearing strata to the destruction or injury of the oil or gas deposits, the preservation and conservation of the property for future productive operations, and to the health and safety of workmen and employees; plug securely all wells before abandoning the same and to shut off effectually all water from the oil or gas-bearing strata; not drill any well within 200 feet of any house or barn on the premises without the lessor's written consent approved by the superintendent; carry out at his expense all reasonable orders and requirements of the supervisor relative to prevention of waste, and preservation of the property and the health and safety of workmen; bury all pipe lines crossing tillable lands below plow depth unless other agreements therefor are made with the superintendent; pay the lessor all damages to crops, buildings, and other improvements of the lessor occasioned by the lessee's operations: *Provided*, That the lessee shall not be held responsible for delays or casualties occasioned by causes beyond his control.

SEC. 34. Inspection of leased premises, and books and accounts of lessees.—Lessees shall agree to allow the lessors and their agents or any authorized representative of the Interior Department to enter, from time to time, upon and into all parts of the leased premises for the purpose of inspection, and shall further agree to keep a full and correct account of all operations and make reports thereof, as required by the applicable regulations of the Department; and their books and records, showing manner of operations and persons interested, shall be open at all times for examination by such officers of the Department as shall be instructed in writing by the Secretary of the Interior or authorized by regulations to make such examination.

SEC. 35. Mines to be timbered properly.—In mining operations the lessee shall keep the mine well and sufficiently timbered at all points where necessary, in accordance with good mining practice, and in such manner as may be necessary to the proper preservation of the property leased and safety of workmen.

SEC. 36. Surrender of leased premises in good condition.—
On expiration of the term of a lease, or when a lease is surrendered, the lessee shall deliver to the Government the leased ground, with the mine workings in case of leases other than oil and gas, in good order and condition, and the bondsmen will be held for such delivery in good order and condition, unless relieved by the Secretary of the Interior for cause. It shall, however, be stipulated that the machinery necessary to operate any mine is the property of the lessee, but that it may be removed by him only after the condition of the property has been ascertained by inspection by the Secretary of the Interior or his authorized agents, to be in satisfactory condition.

SEC. 37. Penalties.-Failure of the lessee to comply with any provisions of the lease, of the operating regulations, of these regulations, orders of the superintendent or his representative, or of the orders of the supervisor or his representative, shall subject the lease to cancellation by the Secretary of the Interior or the lessee to a penalty of not more than \$500 per day for each day the terms of the lease, the regulations, or such orders are violated, or to both such penalty and cancellation: Provided, That the lessee shall be entitled to notice and hearing, within 30 days after such notice, with respect to the terms of the lease, regulations, or orders violated, which hearing shall be held by the supervisor, whose findings shall be conclusive unless an appeal be taken to the Secretary of the Interior within 30 days after notice of the supervisor's decision, and the decision of the Secretary of the Interior upon appeal shall be conclusive.

## ASSIGNMENTS

SEC. 38. Leases, or any interest therein, may be assigned or transferred only with the approval of the Secretary of the Interior, and to procure such approval the assignee must be qualified to hold such lease under existing rules and regulations, and shall furnish a satisfactory bond for the faithful performance of the covenants and conditions thereof. No lease or any interest therein, or the use of such lease, shall be assigned, sublet, or transferred, directly or indirectly, by working or drilling contract, or otherwise, without the consent of the Secretary of the Interior. Assignments of leases shall be filed with the superintendent within 20 days after the date of execution.

## STIPULATIONS

SEC. 39. The lessee under any lease heretofore approved may by stipulation (Form 5-154i), with the consent of the

lessor and the approval of the Secretary of the Interior, make such approved lease subject to all the terms, conditions, and provisions contained in the lease form and regulations currently in use. Stipulations shall be filed with the superintendent within 20 days after the date of execution.

#### CANCELLATIONS

Sec. 40. When, in the opinion of the Secretary of the Interior, the lessee has violated any of the terms and conditions of a lease or of the applicable regulations, or if mining operations are conducted wastefully and without regard to good mining practice, the Secretary of the Interior shall have the right at any time after 30 days notice to the lessee specifying the terms and conditions violated, and after a hearing, if the lessee shall so request within 30 days after issuance of the notice, to declare such lease null and void, and the lessor shall then be entitled and authorized to take immediate possession of the land.

On the following conditions, the lessee may, on approval of the Secretary of the Interior, surrender a lease or any part of it:

- (a) That he make application for cancellation to the superintendent having jurisdiction over the land.
- (b) That he pay a surrender fee of one dollar at the time the application is made.
- (c) That he pay all royalties and rentals due to the date of such application.
- (d) That he make a satisfactory showing that full provision has been made for conservation and protection of the property and that all wells, drilled on the portion of the lease surrendered, have been properly abandoned.
- (e) If the lease has been recorded, that he file, with his application, a recorded release of the acreage covered by the application.
- (f) If the application is for the cancellation of the entire lease or the entire undivided portion, that he surrender the lease: Provided, That where the application is made by an assignee to whom no copy of the lease was delivered, he will be required to surrender only his copy of the assignment.
- (g) If the lease (or portion being surrendered or cancelled) is owned in undivided interests by more than one party, then all parties shall join in the application for cancellation.
- (h) That all required fees and papers must be in the mail or received on or before the date upon which rents and royalties become due, in order for the lessee and his surety to be relieved from liability for the payment of such royalties and rentals.
- (i) If there has been a contest respecting a lease or leases, the approved, the disapproved, or the cancelled parts thereof will be held in the office of the superintendent for five days after the Department's decision has been promulgated, by mail or delivery, and will not be delivered, if within that period a motion for review and reconsideration be filed, until such motion is passed upon by the Department.
- (j) In the event oil or gas is being drained from the leased premises by wells not covered by a lease; the lease, or any part of it, may be surrendered, only on such terms and conditions as the Secretary of the Interior may determine to be reasonable and equitable.

No part of any advance rental shall be refunded to the lessee nor shall he be relieved, by reason of any subsequent surrender or cancellation of the lease, from the obligation to pay said advance rental when it becomes due.

For proper method of terminating Departmental leases covering lands from which restrictions have been removed see section 3 of the Act of May 27, 1908 (35 Stat. 312).

## REMOVAL OF RESTRICTIONS

SEC. 41. Leases executed but not approved before restrictions removed from land.—Leases executed before the removal of restrictions against alienation on land from all of which restrictions against alienation shall be removed after such execution, if such leases contain specific provision for approval by the Secretary of the Interior, whether now filed with the Department or presented for consideration hereafter, will be considered and acted upon by this Department as heretofore but only for the purpose of approving or dis-

approving the instrument.

Sec. 42. Operations after removal of restrictions from leased lands.—Oil and gas leases heretofore approved and leases for other minerals now or hereafter in force on land from all of which restrictions against alienation have been or shall be removed, even if such leases contain provisions authorizing supervision by this Department, shall, after such removal of restrictions against alienation, be operated entirely free from such supervision, and the authority and power delegated to the Secretary of the Interior in said leases shall cease and all payments required to be made to the superintendent shall thereafter be made to the lessor or the then owner of the land, and changes in regulations thereafter made by the Secretary of the Interior shall not apply to such leased land from which said restrictions are removed.

In the event restrictions are removed from a part of the land included in any lease to which this section applies the entire lease shall continue subject to the supervision of the Secretary of the Interior, and all royalties thereunder shall be paid to the superintendent until such time as the lessor and lessee shall furnish the Secretary of the Interior satisfactory information that adequate arrangements have been made to account for the oil, gas, or mineral upon the restricted land separately from that upon the unrestricted Thereafter the restricted land only shall be subject to the supervision of the Secretary of the Interior: Provided, That the unrestricted portion shall be relieved from such supervision, as in the lease or regulations provided.

Sec. 43. Relinquishment of Government supervision.—All oll and gas leases hereafter executed shall contain the following relinquishment of supervision clause and terms operative after such relinquishment, or other provisions similar in substance:

"Relinquishment of supervision by the Secretary of the Interior.—Should the Secretary of the Interior, at any time during the life of this instrument, relinquish supervision as to all or part of the acreage covered hereby, such relinquishment shall not bind lessee until said Secretary shall have given 30 days' written notice. Until said requirements are fulfilled, lessee shall continue to make all payments due hereunder as heretofore in section 3 (c). After notice of relinquishment has been received by lessee, as herein provided, this lease shall be subject to the following further conditions:

"(a) All rentals and royalties thereafter accruing shall be paid in the following manner: Rentals and royalties shall be paid to lessor or his successors in title, or to a trustee appointed under the provisions of section 9 hereof. Rentals and royalties shall be paid directly to lessor his successors in title, or to said trustee as the case may be.

"(b) If, at the time supervision is relinquished by the Secretary of the Interior, lessee shall have made all payments then due hereunder, and shall have fully performed all obligations on its part to be performed up to the time of such relinquishment, then the bond given to secure the performance hereof, on file in the Indian Office, shall be of no further force or effect.

"(c) Should such relinquishment affect only part of the acreage, then lessee may continue to drill and operate the land covered hereby as an entirety: Provided, That lessee shall pay in the manner prescribed by section 3 (c), for the benefit of lessor such proportion of all rentals and royalties due hereunder as the acreage retained under the supervision of the Secretary of the Interior bears to the entire acreage of the lease, the remainder of such rentals and royalties to be paid directly to lessor or his successors in title or said trustee as the case may be, as provided in subdivision (a) of this section.

"Division of fee.—It is covenanted and agreed that should the fee of said land be divided into separate parcels, held by different owners, or should the rental or royalty interests hereunder be so divided in ownership, after the execution of this lease and after the Secretary of the Interior relinquishes supervision hereof, the obligations of lessee hereunder shall not be added to or changed in any manner whatsoever save as specifically provided by the terms of this lease. Notwithstanding such separate ownership, lessee may continue to drill and operate said premises as an entirety: Provided, That each separate owner shall receive such proportion of all rentals and royalties accruing after the vesting of his title as the acreage of the fee, or rental or royalty interest, bears to the entire acreage covered by the lease; or to the entire rental and royalty interest as the case may be: Provided further. That if, at any time after Departmental supervision hereof is relinquished, in whole or in part, there shall be four or more parties entitled to rentals or royalties hereunder. whether said parties are so entitled by virtue of undivided interests or by virtue of ownership of separate parcels of the land covered hereby, lessee at his election may withhold the payment of further rentals or royalties (except as to the portion due the Indian lessor while under restriction), until all of said parties shall agree upon and designate in writing and in a recordable instrument a trustee to receive all payments due hereunder on behalf of said parties and their respective successors in title. Payments to said trustee shall constitute lawful payments hereunder, and the sole risk of an improper or unlawful distribution of said funds by said trustee shall rest upon the parties naming said trustee and their respective successors in title." (The above provisions are copied from oil and gas mining lease form 5-154h, revised April 24, 1935.)

Sec. 44. Division of royalty to separate fee owners.—Should the removal of restrictions affect only part of the acreage covered by a lease containing provisions to the effect that the royalties accruing under the lease, where the fee is divided into separate parcels, shall be paid to each owner in the proportion which his acreage bears to the entire acreage covered by the lease, the lessee or assignee of such unrestricted portion will be required to make the reports required by these regulations and the operating regulations with respect to the beginning of drilling operations, completion of wells, and production the same as if the restrictions had not been removed. In the event the unrestricted portion of the leased premises is producing, the owner of the lease thereon will be required to pay the portion of the royalties due the Indian lessor at the time and in the manner specified by these regulations.

Sec. 45. Restrictions especially continued as to certain lands.-Restricted lands allotted as either homestead or surplus allotments, designated as tax exempt under section 4 of the Act of May 10, 1928, as amended May 24, 1928 (45 Stat. 495-733), the entire interest in which was acquired by inheritance, gift, device, or purchase with restricted funds, by persons of one-half or more Indian blood, after the passage of the Act of January 27, 1933 (47 Stat. 777), continue to be restricted under the provisions of the last mentioned act and oil and gas leases thereof are subject to these regulations and all such leases to be valid must be approved by the Secretary of the Interior. Lands inherited by or devised to full blood Indians prior to the Act of January 27, 1933 are not affected as to restrictions by the provisions of said act and may continue to be leased with the approval of the county court having jurisdiction of the estate of the deceased allottee and without approval of the Secretary of the Interior (54 L. D. 382; 10 Fed. 2, 487). Lands acquired prior to the passage of the Act of January 27, 1933 by Indians of less than full blood, whether such lands were restricted and tax exempt or restricted and taxable, passed to such persons free of all restrictions. Inherited homesteads restricted prior to April 26, 1931, by section 9 of the Act of May 27, 1908 (35 Stat. 312), for the benefit of heirs of one-half or more Indian blood but less than full bloods, born after March 4, 1906, became unrestricted April 26, 1931, or upon the death prior thereto of the heir born subsequent to March 4, 1906, and oil and gas leases thereof are not subject to these regulations nor under the jurisdiction of the Secretary of the Interior.

#### FIELD CLERKS

Sec. 46. Local representatives known officially as "field clerks" are located in the various districts, comprising that part of the State of Oklahoma occupied by the Five Civilized Tribes. Such field clerks shall report to and act under the direction of the superintendent. Any and all counsel and advice desired by allottees concerning deeds, leases, or other instruments or matters relating to lands allotted to them shall be furnished by such field clerks free of charge. Field clerks shall not, during their term of employment, have any personal interest, directly or indirectly, in any transaction concerning leases covering lands of allottees or in the purchase or sale of any such lands regardless of whether the restrictions have or have not been removed. This prohibition, however, shall not apply to lands which such field clerks may have legally acquired before their employment in the Indian Service. Field clerks shall report to the superintendent at the end of each month the work performed during such period and special reports shall be made immediately of any apparently illegal transaction involving the estates or allotments of allottees.

#### FORMS

SEC. 47. Leases, assignments, and other papers must be upon forms prepared by the Department, and upon application the superintendent of the Five Civilized Tribes Agency at Muskogee, Oklahoma, will furnish prospective lessees with such forms at a cost of \$1 per set.

Form 5-154. Lease for Minerals other than Oil and Gas. Form 5-154a. Lessee's personal bond supported by Government securities.

Form 5-154b. Bond for separate leases.

Form 5-154c. Affidavit of Indian lessor, proof of bonus, etc.

Form 5-157d. Authority of Officers to execute papers.

Form 5-154g. Affidavit of personal surety to accompany bond.

Form 5-154h. Oil and gas mining lease.

Form 5-154i. Stipulation modifying terms of oil and gas lease.

Form 5-154m. Bond covering assignment.

Form 5-154u. \$15,000 collective bond.

Form F. Proof of heirship.

Form G. Assignment.

Form I. Coal and asphalt lease.

## EFFECTIVE DATE

SEC. 48. These regulations shall become effective and in full force from and after the date of approval, and shall be subject to change or alteration at any time by the Secretary of the Interior: Provided, That no regulations made after the approval of any lease shall operate to affect the term of the lease, rate of royalty, rental, or acreage unless agreed to by both parties to the lease. All former regulations governing the leasing of individually owned lands of the Pive Civilized Tribes for mining purposes are superseded by these regulations.

These regulations shall apply in so far as practicable to land purchased for Indians under the Oklahoma Indian Welfare Act of June 26, 1936 (49 Stat. 1967), as well as to other lands of individual Indians of the Five Civilized Tribes.

APRIL 15, 1938.

The foregoing regulations are respectfully submitted to the Secretary of the Interior with the recommendation that they be approved.

WILLIAM ZIMMERMAN, Jr.,
Assistant Commissioner of Indian Affairs.

Approved April 27, 1938.

OSCAR L. CHAPMAN,

Assistant Secretary of the Interior.

[F. R. Doc. 38-1268; Filed, May 4, 1938; 9:29 a. m.]

REGULATIONS GOVERNING THE LEASING OF TRIBAL LANDS FOR MINING PURPOSES

(Not Applicable to the Crow Reservation, Montana, or to the Ceded Part of the Wind River Reservation, Wyoming, or to any reservation covered by special regulations)

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The proviso to section 3 of the act of February 28, 1891 (26 Stat. 795), reads:

That where lands are occupied by Indians who have bought and paid for the same, and which lands are not needed for farming or agricultural purposes, and are not desired for individual allotments, the same may be leased by authority of the council speaking for such Indians, for a period not to exceed five years for grazing or farming or ten years for mining purposes, in such quantities and upon such terms and conditions as the agent in charge of such reservation may recommend, subject to the approval of the Secretary of the Interior.

The act of May 29, 1924 (43 Stat. 244), provides:

That unallotted land on Indian reservations other than lands of the Five Civilized Tribes and the Osage Reservation subject to lease for mining purposes for a period of ten years under the proviso to section 3 of the act of February 28, 1891 (26 Stat. L. 795), may be leased at public auction by the Secretary of the Interior, with the consent of the council speaking for such Indians, for oil and gas mining purposes for a period of not to exceed ten years, and as much longer thereafter as oil or gas shall be found in paying quantities, and the terms of any existing oil and gas mining lease may in like manner be amended by extending the term thereof for as long as oil or gas shall be found in paying quantities.

To carry these provisions of law into effect the following regulations are prescribed:

## DEFINITIONS

SEC. 1. The term "superintendent" herein refers to the superintendent or other officer of the Indian Service or of the Government who may have jurisdiction over the lands involved.

The term "supervisor" herein refers to a representative of the Secretary of the Interior, under direction of the United States Geological Survey, authorized and empowered to supervise and direct operations under oil and gas or other mining leases, to furnish scientific and technical information and advice, to ascertain and record the amount and value of production, and to determine and record rentals and royal-ties due and paid.

## HOW TO ACQUIRE LEASES

Sec. 2. Tribal council may authorize leases to be made.— The Tribal Council of any Indian tribe, speaking for such Indians by resolution properly authenticated, may authorize the Secretary of the Interior to advertise the sale of leases for mining purposes on their tribal lands not needed for farming or agricultural purposes. Except where a tribe is authorized to execute its own leases pursuant to tribal constitution or charter adopted and approved pursuant to provisions contained in the act of June 18, 1934 (48 Stat. 984), the act of May 1, 1936 (49 Stat. 1250, or the act of June 26, 1936 (49 Stat. 1967), the Secretary of the Interior may thereafter authorize and empower any person to be by him designated to execute for and on behalf of any tribe, and subject to his approval, all leases on such lands for oil and gas or other mining purposes, except metalliferous minerals on unallotted lands of Indian reservations in Arizona, California, Idaho, Montana, Nevada, New Mexico, Oregon, Washington, or Wyoming, which are subject to lease under section 26 of the act of June 30, 1919 (41 Stat. 31), amended March 3, 1921 (41 Stat. 1225-1231), and December 16, 1926 (44 Stat.

Sec. 3. Sale of oil and gas leases.—At such times as the Secretary of the Interior may direct, after being authorized by the tribal council, the superintendent shall publish and distribute notices, at least 15 days prior to the sale, that oil and gas leases on specific tracts, each of which shall be in a compact body, will be offered at public auction to the highest responsible bidder. The successful bidder must deposit with the superintendent, on the day of the sale, a certified check or bank draft on a solvent bank in an amount equal to 20 percent of the bonus bid and of the first year's rental as a guaranty of good faith. The balance of the bonus and of the first year's rental shall be paid and the lease in completed form shall be filed with the superintendent within 20 days after the lease is forwarded to the lessee for execution, unless such period shall have been extended by the superintendent for good and sufficient reason. If the successful bidder fails to complete the lease or pay the full consideration within said period or extension thereof, or if the lease is disapproved through no fault of the lessor or of the Department, the amount of bonus and rental deposited will be forfeited, as liquidated damages, for the use and benefit of the Indian lessor.

The right is reserved by the Secretary of the Interior to reject any and all bids and to disapprove and reject prior to approval, any lease made on an accepted bid, and should any bid be rejected or lease disapproved after the bonus and rental deposit is made by the bidder, such deposit shall be returned immediately. The successful bidder or bidders shall pay the costs of publishing and distributing the notices of the sale of leases.

Sec. 4. Government employees can not acquire leases.— No lease, assignment thereof, or interest therein will be approved to any employee or employees of the United States Government whether connected with the Indian Service or otherwise, and no employee of the Interior Department shall be permitted to acquire any interest in any mineral lease covering restricted Indian lands by ownership of stock in corporations having such leases or in any other manner.

Sec. 5. Corporations and corporate information,—If the applicant for a lease is a corporation, it shall file evidence of authority of its officers to execute papers; and with its first application it shall also file a certified copy of its articles of incorporation, and, if foreign to the State in which the lands are located, evidence showing compilance with the corporation laws thereof. Statements of changes in officers and stockholders shall be furnished by a corporation lessee to the superintendent January 1 of each year, and at such other times as may be requested.

Whenever deemed advisable in any case the superintendent may require a corporation applicant or lessee to file:

- (I) Lists of officers, principal stockholders, and directors, with post-office addresses and number of shares held by each.
  - (II) A sworn statement of the proper officer showing:
  - (a) The total number of shares of the capital stock actually issued and the amount of cash paid into the treasury on each share sold; or, if paid in property, the kind, quantity, and value of the same paid per share.

- (b) Of the stock sold, how much remains unpaid and subject to assessment.
- (c) The amount of cash the company has in its treasury and elsewhere.
- (d) The property, exclusive of cash, owned by the company and its value.
- (e) The total indebtedness of the company and the nature of its obligations.
- (f) Whether the applicant or any person controlling, controlled by or under common control with the applicant has filed any registration statement, application for registration, prospectus or offering sheet with the Securities and Exchange Commission pursuant to the Securities Act of 1933 or the Securities Exchange Act of 1934 or said Commission's rules and regulations under said Acts; if so, under what provision of said Acts or rules and regulations; and what disposition of any such statement, application, prospectus or offering sheet has been made.

(III) Affidavits of individual stockholders, setting forth in what corporations or with what persons, firms, or associations such individual stockholders are interested in mining leases on restricted lands within the State, and whether they hold such interests for themselves or in trust.

SEC. 6. Bond.—Lessees shall furnish with each lease, a bond (form 5-157c) with personal sureties or with an acceptable company authorized to act as sole surety. Such bond shall be in amount as follows: For less than 80 acres, \$1,000; for 80 acres and less than 120 acres, \$1,500; for 120 acres and not more than 160 acres, \$2,000; and for each additional 40 acres, or part thereof, above 160 acres, \$500; Provided, That a lessee may file one bond (form 5-157f) in the sum of \$15,000, covering all leases of a particular class in any one State up to 10,240 acres, to which he is or may become a party. The right is reserved at any time before or after approval of the lease to increase the amount of a bond above the sum named, in any case where the Secretary of the Interior deems it proper to do so. Bonds with personal sureties will be accepted only where the sureties deposit collateral, with the Commissioner of Indian Affairs, equal in value to the full amount of the bond and consisting of any public debt obligation of the United States, guaranteed as to principal and interest by the United States. In lieu of other bonds, lessees may execute their own surety contracts upon deposit, with the Commissioner of Indian Affairs, of Government bonds, equal in value to the full amount of the bond, as collateral (form 5-154a),

SEC. 7. Lessees to furnish additional information.—The superintendent may, either before or after approval of a lease, call for any additional information desired to carry out these regulations. If a lessee shall fail to furnish the papers necessary to put his lease and bond in proper form for consideration, the superintendent shall forward such lease for disapproval.

Sec. 8. Lands to be in compact body.—The area covered by a lease shall be in a reasonably compact body and shall conform to the system of public-land surveys, except that leases covering lode ground may consist of one or more adjoining parallelograms 1,500 feet in length by 600 feet in width, as provided by the United States mining laws. No lease under these regulations shall convey any extralateral rights, and no coal lease shall have a length exceeding one mile along the outcrop.

## ACREAGE LIMITATION

SEC. 9. (a) Except in the State of Oklahoma, no individual, corporation, partnership, company, or association shall be permitted to hold under leases for oil and/or gas mining purposes, restricted allotted or unallotted Indian lands in any one State in excess of 10,240 acres in the aggregate: Provided, That any such individual, corporation, partnership, company, or association may hold leases on not to exceed 10,240 acres of tribal lands within that part of the Navajo Reservation lying within the State of New Mexico, irrespective of other holdings in said State: Provided further,

That the acreage leased by any officer or director of a company shall be charged against the company, and vice versa, and the acreage shall also be charged in the case of stockholders owning 40 or more percent of the stock. The acreage of companies having common stockholders owning a majority of the stock of each company shall be charged against each other, or in case such companies have one or more common officers or directors. In all other cases each corporation will be considered a separate and distinct entity.

(b) On deposits of the nature of lodes or veins, containing ores of gold, silver, copper, lead, zinc, or other useful metals,

not more than 640 acres.

(c) For beds of placer gold, gypsum, asphaltum, phosphate, iron ores, or other useful minerals other than coal, oil, and gas, not more than 960 acres.

(d) For coal, not more than 10,240 acres.

#### TERM OF LEASES

Sec. 10. Oil and gas mining leases shall be made for periods of ten years from the date of approval by the Secretary of the Interior and as much longer as the substances specified in the lease are produced in paying quantities.

Leases for minerals other than oil and gas shall be for a period of ten years.

#### GOVERNMENT RESERVES RIGHT TO BUY MINERALS PRODUCED

Sec. 11. In time of war or other public emergency all of the executive departments of the United States Government shall have the option to purchase at the posted market price on the date of sale all or any part of the substance or substances produced under any lease.

#### RENTS AND ROYALTIES

SEC. 12. Manner of payments.—Except where otherwise provided by the terms of leases where the tribes are organized under the act of June 18, 1934 (48 Stat. 984), all rents and other payments due under leases which have been or may be approved by the Secretary of the Interior shall be paid to the superintendent or to such other person as may be designated by the Secretary of the Interior, for the benefit of the lessors. Except advance payments for the first year which shall be sent direct to the superintendent at the time of filing leases, payments of rental and royalty under leases shall be transmitted through the supervisor, shall be accompanied by a statement by the lessee, in triplicate, showing the specific items of rental or royalty that the remittance is intended to cover, and shall be made at such time or times as the lease provides.

In the event of the discovery of minerals in paying quantities all advance payments shall be allowed as credit on stipulated royalties for the year for which such advance payments have been made. No refund will be made under oil, gas, or other mining leases, in the event that royalty from production is not sufficient to equal the advance payment, nor will any part of the moneys so paid be refunded to the lessee because of any subsequent surrender or cancellation of the lease, nor shall the lessee be relieved from the obligation to pay said advance rental annually when it becomes due, by reason of any subsequent surrender or cancellation of the lease.

SEC. 13. Rates of rentals and royalties under oil and gas leases.—The lessee shall pay, beginning with the date of approval of oil and gas leases by the Secretary of the Interior, a rental of \$1.25 per acre per annum in advance during the continuance thereof, together with a royalty of 12½ percent of the value or amount of all oil, gas, and/or natural gasoline, and/or all other hydrocarbon substances produced and saved from the land leased, save and except oil, and/or gas used by the lessee for development and operation purposes on the lease, which oil or gas shall be royalty free. During the period of supervision, "value" for the purposes of the lease may, in the discretion of the Secretary of the Interior, be calculated on the basis of the highest price paid or offered (whether calculated on the basis of short or actual volume) at the time of production for the major portion of the oil

of the same gravity, and gas, and/or natural gasoline, and/or all other hydrocarbon substances produced and sold from the field where the leased lands are situated, and the actual volume of the marketable product less the content of foreign substances as determined by the supervisor. The actual amount realized by the lessee from the sale of said products may, in the discretion of the Secretary of the Interior, be deemed mere evidence of or conclusive evidence of such value. When paid in value, such royalties shall be due and payable monthly on the last day of the calendar month following the calendar month in which produced; when royalty on oil produced is paid in kind, such royalty oil shall be delivered in tanks provided by the lessee on the premises where produced without cost to the lessor unless otherwise agreed to by the parties thereto, at such time as may be required by the lessor. The lessee shall not be required to hold such royalty oil in storage longer than 30 days after the end of the calendar month in which said oil is produced. The lessee shall be in no manner responsible or held liable for loss or destruction of such oil in storage by causes beyond the lessee's control. In determining the value for royalty purposes of products, such as natural gasoline, that are derived from treatment of gas, a reasonable allowance for the cost of manufacture shall be made, such allowance to be twothirds of the value of the marketable product unless otherwise determined by the Secretary of the Interior on application of the lessee or on his own initiative, and that royalty will be computed on the value of gas or casinghead gas, or on the products thereof (such as residue gas, natural gasoline, propane, butane, etc.), whichever is the greater.

If the leased premises produce gas in excess of the lessee's requirements for the development and operation of said premises, then the lessor may use sufficient gas, free of charge, for any desired school or other buildings belonging to the tribe, by making his own connections to a regulator installed, connected to the well and maintained by the lessee, and the lessee shall not be required to pay royalty on gas so used. The use of such gas shall be at the lessor's risk at

all times.

SEC. 14. Annual rentals and expenditures for development on leases other than oil and gas.—Lessees other than oil and gas lessees shall pay on all leases annually in advance for the first calendar year or fraction thereof a rent of 25 cents per acre; for the second and third years, 50 cents per acre; and for the fourth and each succeeding calendar year \$1 per acre.

On all leases of class (b) referred to in section 9 of these regulations, there shall be expended annually in actual mining operations, development, or improvements upon the land leased, or for the benefit thereof, a sum which, with the annual rental, shall amount to not less than \$5 per acre.

On all leases of class (c) referred to in section 9 of these regulations, there shall be expended annually in actual mining operations, development, or improvements upon the land leased, or for the benefit thereof, a sum which, with the annual rental, shall amount to not less than \$100 for each 160 acres or fraction thereof included in the lease.

On all leases of class (d) referred to in section 9 of these regulations there shall be expended annually in actual mining operations, development, or improvements upon the land leased, or for the benefit thereof, a sum which, with the annual rental, shall amount to not less than \$10 per acre.

Each lessee of a nonproducing lease designated in class (b), (c), or (d) in section 9 of these regulations, shall file with the superintendent an itemized statement in duplicate within 20 days after the close of each calendar year of the amount and character of said expenditure during such year, the statement to be certified under oath by the lessee or his agent having personnal knowledge of the facts contained therein.

Sec. 15. Royalty rates for minerals other than oil and gas.—For substances other than gold, silver, copper, lead, zinc, tungsten, coal, asphaltum and allied substances, oil, and gas, the lessee shall pay quarterly or as otherwise provided in the lease, a royalty of not less than ten percent of

the value, at the nearest shipping point, of all ores, metals, or minerals marketed.

For gold, silver, copper, lead, zinc, and tungsten, the lessee shall pay quarterly or as otherwise provided in the lease, a royalty of not less than ten percent, to be computed on the value of bullion as shown by mint returns after deducting forwarding charges to the point of sale, and to be computed on the value of ores and concentrates as shown by reduction returns after deducting freight charges to the point of sale. Duplicate returns shall be filed by the lessee with the superintendent within ten days after the ending of the quarter or other period specified in the lease within which such returns are made: Provided, however, That the lessee shall pay quarterly or as otherwise provided in the lease, a royalty of not less than ten percent of the value of ores and concentrates sold at the mine.

For coal the lessee shall pay quarterly or as otherwise provided in the lease, a royalty of not less than ten cents per ton of 2,000 pounds of mine run, or coal as taken from the mine, including what is commonly called "slack."

For asphaltum and allied substances the lessee shall pay quarterly or as otherwise provided in the lease, a royalty of not less than 10 cents per ton of 2,000 pounds on crude material and of not less than 60 cents per ton on refined substances.

Sec. 16. Time of making royalty payments.—Royalty payments under producing oil and gas leases shall be made monthly on or before the last day of the calendar month following the calendar month for which such payment is to be made.

SEC. 17. Division orders.—Lessees may make arrangements with the purchasers of oil for the payment of the royalties to the superintendent by such purchasers, but such arrangement, if made, shall not operate to relieve a lessee from responsibility should the purchaser fail or refuse to pay royalties when due. Where lessees avail themselves of this privilege, division orders permitting the pipe line companies or other purchasers of the oil to withhold the royalty interest shall be executed and forwarded to the supervisor for approval, as pipe line companies are not permitted to accept or run oil from leased Indian lands until after the approval of a division order showing that the lessee has a lease regularly approved and in effect. When the lessee company runs its own oil, it shall execute an intra-company division order and forward it to the supervisor for his consideration. The right is reserved for the supervisor to cancel a division order at any time or require the pipe line company to discontinue to run the oil of any lessee who fails to operate the lease properly or otherwise violates the provisions of the lease, of these regulations, or of the operating regulations.

When oil is taken by authority of a division order, the lessee or his representative shall be actually present when the oil is gauged and records are made of the temperature, gravity, and impurities. The lessee will be held responsible for the correctness and the correct recording and reporting of all of the foregoing measurements; which, except lowest gauge, shall be made at the time the oil is turned into the pipeline. Failure of the lessee to perform properly these duties will subject the division order to revocation.

## **OPERATIONS**

Sec. 18. Inspection of leased premises, and books and accounts of lessee.—Lessees shall agree to allow the lessors and their agents or any authorized representative of the Interior Department to enter, from time to time, upon and into all parts of the leased premises for the purpose of inspection, and shall further agree to keep a full and correct account of all operations and make reports thereof, as required by the regulations of the Department governing operations on public and restricted Indian land; and their books and records, showing manner of operations and persons interested, shall be open at all times for examination of such officers of the Department as shall be instructed in writing by the Secretary of the Interior or authorized by regulations to make such examination.

SEC. 19. Diligence, and prevention of waste.-The lessee shall exercise diligence in drilling and operating wells for oil and gas on the leased lands while such products can be secured in paying quantities; carry on all operations in a good and workmanlike manner in accordance with approved methods and practice, having due regard for the prevention of waste of oil or gas developed on the land, or the entrance of water through wells drilled by the lessee to the productive sands or oil or gas-bearing strata to the destruction or injury of the oil or gas deposits, the preservation and conservation of the property for future productive operations, and to the health and safety of workmen and employees; plug securely all wells before abandoning the same and to shut off effectually all water from the oil or gas-bearing strata; not drill any well within 200 feet of any house or barn on the premises without the lessor's written consent approved by the superintendent; carry out at his expense all reasonable orders and requirements of the supervisor relative to prevention of waste, and preservation of the property and the health and safety of workmen; bury all pipelines crossing tillable lands below plow depth unless other arrangements therefor are made with the superintendent; pay the lessor all damages to crops, buildings, and other improvements of the lessor occasioned by the lessee's operations: Provided, That the lessee shall not be held responsible for delays or casualties occasioned by causes beyond the lessee's control.

Sec. 20. Permission to start operations.—No operations will be permitted on any lease before it is approved by the Secretary of the Interior.

Written permission must be secured from the supervisor before any operations are started on the leased premises. After such permission is secured the operations must be in accordance with the operating regulations promulgated by the Secretary of the Interior. Copies of these regulations may be secured from either the supervisor or the superintendent and no operations should be attempted without a study of the operating regulations.

SEC. 21. Restrictions on operations.—Oil and gas leases issued under the provisions of these regulations shall be subject to imposition by the Secretary of the Interior of such restrictions as to time or times for the drilling of wells and as to the production from any well or wells as in his judgment may be necessary or proper for the protection of the natural resources of the leased land and in the interest of the lessor. In the exercise of his judgment the Secretary of the Interior may take into consideration, among other things, the Federal laws, State laws, regulations by competent Federal or State authorities, lawful agreements among operators regulating either drilling or production, or both, and any regulatory action desired by tribal authorities.

All such leases shall be subject to any cooperative or unit development plan affecting the leased lands that may be required by the Secretary of the Interior, but no lease shall be included in any cooperative or unit plan without prior approval of the Secretary of the Interior, and consent of the Indian tribe affected.

SEC. 22. Penalties .- Failure of the lessee to comply with any provisions of the lease, of the operating regulations, of these regulations, order of the superintendent or his representative, or of the orders of the supervisor or his representative, shall subject the lease to cancellation by the Secretary of the Interior or the lessee to a penalty of not more than \$500 per day for each and every day the terms of the lease, the regulations, or such orders are violated; or to both such penalty and cancellation: Provided. That the lessee shall be entitled to notice and hearing, within 30 days after such notice, with respect to the terms of the lease, regulations, or orders violated, which hearing shall be held by the supervisor, whose findings shall be conclusive unless an appeal be taken to the Secretary of the Interior within 30 days after notice of the supervisor's decision, and the decision of the Secretary of the Interior upon appeal shall be conclusive.

Sec. 23. Mines to be timbered properly.—In mining operations the lessee shall keep the mine well and sufficiently timbered at all points where necessary, in accordance with good mining practice, and in such manner as may be necessary to the proper preservation of the leased property and

safety of the workmen.

SEC. 24. Surrender of leased premises in good condition.—
On expiration of the term of a lease, or when a lease is surrendered, the lessee shall deliver to the Government the leased ground with the mine workings in good order and condition, and bondsmen will be held for such delivery in good order and condition, unless relieved by the Secretary of the Interior for cause. It shall, however, be stipulated that the machinery necessary to operate the mine is the property of the lessee, but that it may be removed by him only after the condition of the property has been ascertained by inspection by the Secretary of the Interior or his authorized agents, to be in satisfactory condition.

#### FEES

SEC. 25. All leases and assignments shall be executed in sextuplet and when filed with the superintendent shall be accompanied by a filing fee of \$5 which is hereby required pursuant to provisions contained in the act of February 14, 1920 (41 Stat. 408-415), as amended by the act of March 1, 1933 (47 Stat. 1417; 25 U. S. C. 413). This fee will be refunded in case the instrument is disapproved.

#### ASSIGNMENTS

Sec. 26. (a) Approved leases or any interest therein may be assigned or transferred only with the approval of the Secretary of the Interior and to procure such approval the assignee must be qualified to hold such lease under existing rules and regulations and shall furnish a satisfactory bond conditioned for the faithful performance of the covenants and conditions thereof: Provided, That in order for such assignment to receive favorable consideration the lessee shall assign either his whole interest or an undivided interest in the whole lease.

(b) No lease or interest therein or the use of such lease shall be assigned, sublet, or transferred, directly or indirectly, by working or drilling contract, or otherwise, without the

consent of the Secretary of the Interior.

(c) Assignments of leases, and stipulations modifying the terms of existing leases, which stipulations are also subject to the approval of the Secretary of the Interior, shall be filed with the superintendent within 30 days after the date of execution.

# CANCELLATIONS

SEC. 27. When, in the opinion of the Secretary of the Interior, the lessee has violated any of the terms and conditions of a lease or of the applicable regulations, the Secretary of the Interior shall have the right at any time after 30 days notice to the lessee specifying the terms and conditions violated, and after a hearing, if the lessee shall so request within 30 days after issuance of the notice, to declare such lease null and void, and the lessor shall then be entitled and authorized to take immediate possession of the land.

On the following conditions, the lessee may, on approval of the Secretary of the Interior, surrender a lease or any part

of it:

(a) That he make application for cancellation to the superintendent having jurisdiction over the land.

(b) That he pay a surrender fee of one dollar at the time the application is made.

(c) That he pay all royalties and rentals due to the date of such application.

(d) That he make a satisfactory showing that full provision has been made for conservation and protection of the property and that all wells, drilled on the portion of the lease surrendered, have been properly abandoned.

(e) If the lease has been recorded, that he file, with his application, a recorded release of the acreage covered by the

application.

(f) If the application is for the cancellation of the entire lease or the entire undivided portion, that he surrender the lease: Provided, That where the application is made by an assignee to whom no copy of the lease was delivered, he will be required to surrender only his copy of the assignment.

(g) If the lease (or portion being surrendered or canceled) is owned in undivided interests by more than one party, then all parties shall join in the application for cancellation.

(h) That all required fees and papers must be in the mail or received on or before the date upon which rents and royalties become due, in order for the lessee and his surety to be relieved from liability for the payment of such royalties and rentals.

(f) If there has been a contest respecting a lease or leases, the approved, the disapproved, or the canceled parts thereof will be held in the office of the superintendent for five days after the Department's decision has been promulgated, by mail or delivery, and will not be delivered, if within that period a motion for review and reconsideration be filed, until such motion is passed upon by the Department.

(j) In the event oil or gas is being drained from the leased premises by wells not covered by the lease; the lease, or any part of it, may be surrendered, only on such terms and conditions as the Secretary of the Interior may determine to be

reasonable and equitable.

No part of any advance rental shall be refunded to the lessee nor shall he be relieved, by reason of any subsequent surrender or cancellation of the lease, from the obligation to pay said advance rental when it becomes due.

#### EFFECTIVE DATE OF THESE REGULATIONS

SEC. 28. These regulations shall become effective and in full force from and after the date of approval, and shall be subject to change or alteration at any time by the Secretary of the Interior: Provided, That no regulations made after the approval of any lease shall operate to affect the term of the lease, rate of royalty, rental, or acreage unless agreed to by both parties to the lease. All former regulations governing the leasing of tribal lands for mining purposes are superseded by these regulations.

## EXEMPTION OF LEASES MADE BY ORGANIZED TRIBES

SEC. 29. These regulations may be superseded by the provisions of any tribal constitution, by-law or charter issued pursuant to the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), the Alaska Act of May 1, 1936 (49 Stat. 1250), or the Oklahoma Indian Welfare Act of June 26, 1936 (49 Stat. 1967), or by ordinance, resolution or other action authorized under such constitution, by-law or charter. These regulations, in so far as they are not so superseded, shall apply to leases made by organized tribes if the validity of the lease depends upon the approval of the Secretary of the Interior.

## FORMS

SEC. 30. Applications, leases, and other papers must be upon forms prescribed by the Secretary of the Interior, and the superintendent will furnish prospective lessees with such forms at a cost of ten cents each or \$1 per set.

Form 5-154a. Lessee's personal bond supported by Government securities.

Form 5-157. Oil and gas lease.

Form 5-157b. Mining lease other than oil and gas.

Form 5-157c. Bond for separate leases.

Form 5-157d. Authority of officers to execute papers.

Form 5-157e. Assignment.

Form 5-157f. Collective bond.

Form 5-157g. Stipulation.

Moneys received from the sale of forms should be deposited as Miscellaneous Receipts to the credit of Receipt Account 145060 "Sale of Forms" unless the expense of printing the forms was paid from tribal moneys, in which event, the receipts from the sale of the forms should be deposited to the credit of the tribe. MARCH 26, 1938.

The foregoing regulations are respectfully submitted to the Secretary of the Interior with the recommendation that they be approved.

WILLIAM ZIMMERMAN, Jr., Assistant Commissioner of Indian Affairs.

Approved April 27, 1938.

OSCAR L. CHAPMAN,

Assistant Secretary of the Interior.

[F. R. Doc. 38-1269; Filed, May 4, 1938; 9:29 a. m.]

#### DEPARTMENT OF LABOR.

Office of the Secretary.

Decision of the Secretary in the Matter of the Prevailing Minimum Wages in the Envelope Industry

This matter is before me pursuant to Section 1 (b) of the Public Contracts Act (49 Stat. 2036). At my direction the Public, Contracts Board, created in accordance with Section 4 of the said Act by Administrative Order dated October 6, 1936, held a hearing on March 1, 1938, in the above entitled matter.

Notices of the hearing were sent to all known members of the industry, to the trade unions whose memberships include employees in the industry, and to all known trade associations and trade publications. Invitation to attend the hearing was extended through the national press to all other interested parties.

At the hearing testimony was presented by the Envelope Manufacturers Association of America, the International Printing Pressmen and Assistants Union of North America and by several members of the industry.

The Board has reviewed the testimony received at the hearing and on the basis thereof advises me as follows:

The Census of Manufacturers for 1935 indicates that there were at that time 166 establishments in the envelope industry and 9,038 wage earners.

The Envelope Manufacturers Association of America introduced in evidence wage data in the form of a frequency table showing in 5 cent intervals the wages paid to employees in this industry as of a pay roll period in September, 1937. This table resulted from a wage survey made by the Envelope Manufacturers Association of America in October, 1937. The tabulation incorporated wage data for 6,562 employees in 98 envelope manufacturing plants located in 40 cities in 22 states. The data included were received from non-members as well as members of the Envelope Manufacturers Association. The 98 manufacturing plants whose wage data are included in the survey represent 55 per cent of the total number of envelope manufacturing plants in the United States and over 75 per cent of the total output of the indus-These data were supplemented by information received at the hearing from industry members who did not furnish the Envelope Manufacturers Association with data to be included in the survey. The evidence showed a distinct homogeneity of wage structure throughout all states. Wage differentials existed between plants in a state rather than between plants in different states or manufacturing areas.

3,073 workers out of the 6,562 covered in the principal survey fall into wage intervals below 50 cents. Most of these, or 2,654, are tenders of automatic machinery and the wage concentration for this group occupation is between 40 and 45 cents.

The Board recommends that the prevailing minimum wage in the manufacture of envelopes be found to be 42½ cents per hour or \$17.00 per week for a week of 40 hours, arrived at either upon a time or piece work basis.

I have examined the findings and recommendations of the Board and the record of the hearing, and I am of the opinion that such findings and recommendations are correct and I adopt them as my own. Therefore, I hereby determine

That the minimum wage for employees engaged in the performance of contracts with agencies of the United States Government subject to the provisions of the Public Contracts Act (49 Stat. 2036) for the manufacture or supply of envelopes shall be 42½ cents per hour or \$17.00 per week for a week of 40 hours, to be arrived at either upon a time or piece work basis.

This determination shall be effective and the minimum wage hereby established shall apply to all such contracts awarded on or after May 12, 1938.

[SEAL]

Frances Perkins, Secretary of Labor.

Dated this 27th day of April 1938.

[F. R. Doc. 38-1273; Filed, May 4, 1938; 10:28 a. m.]

## SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 4th day of May, A. D. 1938.

[File No. 32-86]

IN THE MATTER OF CENTRAL MAINE POWER COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by Central Maine Power Company, a subsidiary of New England Public Service Company, a registered holding company, for exemption from the provisions of section 6 (a) of said Act for the issue and sale of

(a) First and General Mortgage Bonds, Series G, 4%, dated October 1, 1935, and maturing October 1, 1960, in the principal amount of \$1,000,000 to The Travelers Insurance Company at private sale at the price of 100% of the principal amount thereof plus accrued interest to the date of delivery; the net proceeds to be devoted to reduction of bank loans heretofore made to applicant by The First National Bank of Boston; and

(b) 5,000 shares of common stock, no par value, at the price of \$100 per share; such shares to be first offered to the holders of applicant's common stock and 6% preferred stock at said price on the basis of one share for every 26,2702 outstanding shares then held by such holders; the proceeds of such sales, together with all of said common stock not subscribed for and paid for by such holders to be delivered to New England Public Service Company in full payment of an advance of \$500,000 made by that company to applicant.

It is ordered, That a hearing on such matter be held on May 24, 1938, at ten o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before May 19, 1938.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, Secretary.

[F. R. Doc. 38-1280; Filed, May 4, 1938; 12:44 p. m.]

# United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 4th day of May, A. D. 1938.

[File No. 32-87]

# IN THE MATTER OF PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

#### NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by Public Service Company of New Hampshire, a subsidiary of New England Public Service Company, a registered holding company, for exemption from the provisions of section 6 (a) of said Act for the issue and sale of

(a) First Mortgage 3¾% Bonds, Series C, dated August 1, 1935, and maturing August 1, 1960, in the principal amount of \$750.000, to The Northwestern Mutual Life Insurance Company of Milwaukee, Wisconsin, at private sale at the price of 103% of the principal amount thereof plus accrued interest from February 1, 1938 to the date of delivery; \$475.000 of the proceeds of such sale to be used for payment and discharge of bank loans outstanding in an equal amount and the balance to be used for other corporate purposes; and

(b) 4,000 shares of common stock, without par or face value, to New England Public Service Company at the price of \$50 per share to repay an advance of \$200,000 made by

that company to applicant.

It is ordered. That a hearing on such matter be held on May 24, 1938, at two o'clock in the afternoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before May 19, 1938.

By the Commission.

[SEAL]

Francis P. Brassor, Secretary.

[F. R. Doc, 38-1281; Filed, May 4, 1938; 12:44 p. m.]

# United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on this 29th day of April 1938.

[File No. 32-85]

IN THE MATTER OF NEW YORK STATE ELECTRIC & GAS CORPORATION

# ORDER EXEMPTING ISSUE AND SALE OF NOTE AUTHORIZED BY STATE COMMISSION

New York State Electric & Gas Corporation, a subsidiary company of NY PA NJ Utilities Company, Associated Gas & Electric Corporation, and Associated Gas & Electric Company, registered holding companies, having duly filed with this Commission an application pursuant to Section 6 (b) of the Public Utility Holding Company Act of 1935 for exemption from the provisions of Section 6 (a) of said Act of the issue and sale, by the applicant to The Chase National Bank of New York City, of a 4% serial note of the face value of \$2,000,000, to be secured by \$2,000,000 principal amount of applicant's first mortgage bonds, 4% series due 1965 (exemption being also sought for the issuance of such bonds as collateral security); a hearing on said application having been duly held after appropriate notice; the record in this matter having been examined; and the Commission having made and filed its findings herein:

It is ordered. That the issue and sale of such note, and the issue and pledge as collateral security of such bonds, be, and the same hereby are, exempted from the provisions of Section 6 (a) of the Public Utility Holding Company Act of 1935; subject, however, to the following conditions:

(1) That such issue and sale of such note, and issue and pledge of such bonds, shall be in compliance with the terms and conditions of, and for the purposes represented by, said application, and in compliance with the terms and conditions imposed by the order of the Public Service Commission of New York

(2) That such exemption shall terminate immediately if, at any time, the authorization of such issue and sale by the Public Service Commission of New York shall be revoked or shall otherwise terminate.

(3) That such bonds shall not be sold except at a bona fide sale by or on behalf of the pledgee, or its successors or assigns, to satisfy said note, or by the purchaser at such sale, or by his or its successors or assigns.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, Secretary.

[F. R. Doc. 38-1279; Filed, May 4, 1938; 12:44 p. m.]

No. 88-3

<sup>13</sup> F. R. 901 (DI).

